

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, JUNE 10, 2015**

PRESENT: Peter F. Murphy, Springfield District
James R. Hart, Commissioner At-Large
Janyce N. Hedetniemi, Commissioner At-Large
Ellen J. Hurley, Braddock District
Earl L. Flanagan, Mount Vernon District
John L. Litzenberger, Jr., Sully District
James T. Migliaccio, Lee District
Julie M. Strandlie, Mason District
John C. Ulfelder, Dranesville District

ABSENT: Frank A. de la Fe, Hunter Mill District
Kenneth A. Lawrence, Providence District
Timothy J. Sargeant, Commissioner At-Large

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The meeting was called to order at 8:17 p.m., by Chairman Peter F. Murphy, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner Ulfelder announced that the public hearing for SE 2014-DR-033, Krishna R. Murthy, would be heard at tomorrow's Planning Commission meeting on June 11, 2015. He then explained that a previous public hearing for this application had been conducted in April 2015 and the Commission had recommended approval of this application and the associated encroachment into the Resource Protection Area (RPA) to the Board of Supervisors. However, he noted that the original advertisement for SE 2014-DR-033 had not included a reference to the RPA encroachment exception; therefore, it had to be re-advertised. Commissioner Ulfelder indicated that none of the provisions within the application had been modified.

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Commissioner Hedetniemi announced that the Planning Commission's Tysons Committee had met this evening. She said that the committee would meet again on Thursday, June 25, 2015 at 7:00 p.m. in the Board Conference Room of the Fairfax County Government Center.

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Commissioner Hart announced that John W. Cooper, Clerk to the Planning Commission, had distributed several sets of minutes to the Commission. He then requested that Commissioners review these minutes and indicated that he intended to move the approval of these minutes at the Planning Commission's meeting on Wednesday, June 24, 2015.

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Chairman Murphy announced that since the previous Planning Commission meeting on May 21, 2015 staff had published the Commission's annual report, which had been submitted to the Board of Supervisors. He also stated that the Planning Commission Communicator Newsletter had been published and was posted on the Planning Commission's website at: <http://www.fairfaxcounty.gov/planning/april2015newsletter.pdf>. In addition, he said that an updated version of the Planning Commission's handbook had been published, which included the updated Commission bylaws. Chairman Murphy then thanked the Planning Commission's staff for their work on these publications.

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Chairman Murphy announced that disclosure forms for the Commissioners were due by Monday, June 15, 2015, and requested that Commissioners submit these forms to staff at the Planning Commission meeting on Thursday, June 11, 2015.

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ORDER OF THE AGENDA

Secretary Hart established the following order of the agenda:

1. SEA 2004-DR-004 – SHORE ARMANI, TRUSTEE A/K/A SHOREH H. ARMANI
2. SE 2014-MV-073 – SUPERIOR CONCRETE MATERIALS INC.
3. SE 2015-MV-003 – FIRST YEARS LEARNING CENTER, LLC

This order was accepted without objection.

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SEA 2004-DR-004 – SHORE ARMANI, TRUSTEE A/K/A SHOREH H. ARMANI – Appl. under Sect. 9-622 of the Zoning Ordinance to amend SE 2004-DR-004 previously approved for an existing office use in a residential district to permit change in development. Located at 1580 Chain Bridge Rd., McLean, 22101, on approx. 19,500 sq. ft. of land zoned R-3, CRD, and SC. Tax Map 30-4 ((2)) (6) 46. DRANESVILLE DISTRICT. PUBLIC HEARING.

Jane Kelsey, Applicant's Agent, Jane Kelsey & Associates, Inc., reaffirmed the affidavit dated April 30, 2015.

There were no disclosures by Commission members.

Commissioner Ulfelder asked that Chairman Murphy ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be

waived, and the public hearing closed. No objections were expressed; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Ulfelder for action on this case.

(Start Verbatim Transcript)

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Chairman Murphy: Without objection, the public hearing is closed. Recognize Mr. Ulfelder.

Commissioner Ulfelder: Thank you, Mr. Chairman. This is pretty straightforward – the applicant just seeking to continue a previously-approved office use in an existing single-family detached dwelling and add an additional employee, who would live in the dwelling for security purposes. This has the support of both the McLean Citizens Association and the McLean Planning Committee. And, therefore, I'm going to move that the Planning Commission recommended to the Board of Supervisors approval of SEA 2004-DR-004, subject to the development – well, development conditions – well, wait a minute. Before I do that, I would like to ask Ms. Kelsey to come forward.

Chairman Murphy: Ms. Kelsey, would you come here – stand up please and –

Commissioner Ulfelder: Please.

Chairman Murphy: -reaffirm that you agree with the development conditions and you understand them.

Commissioner Ulfelder: Does the application agree with the-

Jane Kelsey, Applicant's Agent, Jane Kelsey & Associates, Inc.: Yes.

Commissioner Ulfelder: -development conditions dated May 26th?

Ms. Kelsey: I have – concur that the applicant does agree with the development conditions, as contained in the staff report.

Commissioner Ulfelder: Thank you – dated, I think, May 26th, right?

Ms. Kelsey: Yes.

Commissioner Ulfelder: Therefore, I MOVE THE PLANNING COMMISSION RECOMMEND TO BOARD OF SUPERVISORS APPROVAL OF SEA 2004-DR-004, SUBJECT TO DEVELOPMENT CONDITIONS DATED MAY 26, 2015.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SEA 2004-DR-004, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

Commissioner Ulfelder: I also have some modifications and waivers to move.

Chairman Murphy: Okay.

Commissioner Ulfelder: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE FOLLOWING WAIVERS AND MODIFICATIONS:

- MODIFICATION OF THE TRANSITIONAL SCREENING YARD REQUIREMENTS AND BARRIER REQUIREMENTS, PER PARAGRAPH 3 OF SECTION 13-304 AND PARAGRAPH 12 OF SECTION 13-304 OF THE ZONING ORDINANCE TO THAT SHOWN ON THE SEA PLAT;
- WAIVER OF THE LOADING SPACE REQUIREMENT, PURSUANT TO THE PROVISIONS OF SECTION 11-202 OF THE ZONING ORDINANCE;
- MODIFICATION OF THE TRAVEL LANE REQUIREMENT TO ALLOW A 15-FOOT WIDE TRAVEL LANE, AS SHOWN ON THE SEA PLAT; AND
- WAIVER OF FRONTAGE IMPROVEMENTS, INCLUDING CURB AND GUTTER AND RIGHT-OF-WAY IMPROVEMENTS, ALONG PATHFINDER LANE.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

(The motions carried by a vote of 9-0. Commissioners de la Fe, Lawrence, and Sargeant were absent from the meeting.)

(End Verbatim Transcript)

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SE 2014-MV-073 – SUPERIOR CONCRETE MATERIALS INC.

– Appl. under Sects. 5-604 and 9-607 of the Zoning Ordinance to permit a concrete mixing and batching plant with storage and accessory uses, and an increase in building height from 75.0 ft. up to a maximum of 85.0 ft. Located at 8420 Terminal Rd., Lorton, 22079, on approx. 2.00 ac. of land zoned I-6. Tax Map 99-3 ((1))
16 A. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Commissioner Flanagan announced his intent to defer the decision only for the subject application at the conclusion of the public hearing.

Andrew Painter, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, PC, reaffirmed the affidavit dated May 14, 2015.

Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had a case where attorneys in Mr. Painter's firm were representing an adverse party. However, he noted that this matter and those parties were not related to this case and there was no business or financial relationship; therefore, it would not affect his ability to participate in this case.

Mary Ann Tsai, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of application SE 2014-MV-073.

Commissioner Flanagan said that the South County Federation (SCF) met on June 9, 2015, to discuss the subject application and during that meeting the SCF expressed concern about traffic patterns at the intersection of Terminal Road and the Fairfax County Parkway, which was the only point of ingress/egress for trucks accessing the site. He pointed out that there was significant traffic congestion along Terminal Road during peak hour traffic. He then stated that issues regarding traffic congestion at this intersection had not been articulated in the staff report and asked if there had been a review of this issue. Ms. Tsai explained that the staff report did not contain information regarding a traffic analysis of the intersection of Terminal Road and the Fairfax County Parkway, stating that the Fairfax County Department of Transportation and the Virginia Department of Transportation expressed no concerns about the proposal's impact on this intersection. She added that the applicant had provided estimates for the traffic that would be generated by the proposed use on the site, which was included in the Statement of Justification in Appendix 2 of the staff report. Ms. Tsai then deferred to the applicant for more information on this issue. Commissioner Flanagan said that the applicant had indicated that the proposal would generate approximately 80 additional trips during a 24-hour period and noted that he favored providing additional time for the surrounding community to review this impact.

When Commissioner Hart asked staff about the possible inclusion of a development condition that would prohibit truck traffic from utilizing Lorton Road, Ms. Tsai indicated that staff did not support this condition. Commissioner Hart then said that he concurred with staff due to concerns about the Zoning Enforcement Branch's (ZEB) ability to enforce this condition, stating that the enforcement of traffic provisions was under the jurisdiction of the Fairfax County Police. Ms. Tsai expressed her concerns regarding the enforcement of this development condition, adding that there was an existing process conducted by the Board of Supervisor for restricting truck

traffic on certain roads and staff concluded that this process would be the appropriate means to address this issue. In addition, she said that staff had not evaluated the feasibility of restricting truck traffic on Terminal Road. A discussion ensued between Commissioner Hart and Ms. Tsai regarding the roads that trucks could legally utilize in the area surrounding the subject property, the need for including an additional development condition prohibiting truck traffic on Lorton Road, and the impact of the proposal on Lorton Road wherein Ms. Tsai explained the following:

- The truck traffic in the surrounding area could legally utilize Lorton Road;
- The only restriction on truck traffic pertained to the Lorton Landfill; and
- The subject property was located approximately four to five miles from Lorton Road and staff had concluded that because of this distance, a development condition prohibiting truck traffic was not warranted.

Commissioner Flanagan addressed Commissioner Hart's concern regarding a potential development condition prohibiting truck traffic generated by the site from utilizing Lorton Road, saying that a similar condition prohibiting truck traffic from the Lorton Landfill had not been sufficiently enforced. However, he explained that including such a condition improved relations between the community and the applicant, adding that the applicant for the landfill had not objected to including such a condition and the Planning Commission had supported this condition. In addition, Commissioner Flanagan pointed out that a similar facility located at another site in the Mount Vernon District had been approved in 2004 wherein the Planning Commission had approved a development condition that restricted truck traffic.

Commissioner Migliaccio supported Commissioner Flanagan's efforts to address the concerns raised by the community regarding truck traffic. When he asked staff about the proximity of the subject property to Lorton Road, Ms. Tsai reiterated that the subject property was located approximately four to five miles away from this road. A discussion ensued between Commissioner Migliaccio and Ms. Tsai regarding the need for truck traffic generated by the site to utilize Lorton Road wherein Ms. Tsai indicated that truck traffic would primarily utilize the Fairfax County Parkway.

Commissioner Migliaccio aligned himself with Commissioner Hart regarding his opposition to including a development condition prohibiting truck traffic generated by the site from utilizing Lorton Road, saying that he favored pursuing a private agreement between the applicant and the SCF. Commissioner Flanagan indicated that this issue would be discussed with the SCF during the deferral period, adding that certain kinds of truck traffic would need to utilize Lorton Road to access the Lorton Landfill.

Mr. Painter explained that the subject application would expand the applicant's operations within the County by opening a concrete batching facility on the site, adding that this facility would create additional jobs and incur a positive economic impact on the surrounding area. He said that the applicant had existing operations throughout Northern Virginia and had been evaluating areas for expansion within the County. He then indicated that the subject property was consistent with the applicant's criteria for the proposed use because it was zoned industrial, was not located near

residential development, and had sufficient access to transportation networks to serve an area within a 20-mile radius of the site.

Mr. Painter stated that the proposal would be constructed in one phase. He addressed concerns about the dust generated by the proposed use, pointing out that trucks exiting the property would be washed with a reclamation system. In addition, he said that employees at the site would keep stockpiled materials damp. He also indicated that no hazardous materials would be stored on the subject property and all chemicals utilized in the various mixing processes conducted on the site would be stored in a manner consistent with federal regulations.

Mr. Painter stated that approximately 30 to 33 employees would work at the proposed facility. He added that the subject application included environmental commitments, stating that the applicant was a participant in the National Ready-Mix Concrete Association's Green Star Program and had received multiple awards for its environmental policies. He explained that the proposal would increase the buffering on the site, improve the interior parking lot landscaping, reduce phosphorous on the site by approximately 20 percent, and implement stormwater management policies that were consistent with current Virginia Department of Environmental Quality (DEQ) regulations. Mr. Painter also indicated that the revised development conditions dated June 4, 2014 included commitments to the County's Green Building Policies, such as utilizing low-emitting adhesives, reducing impervious surface cover, reusing existing buildings, and installing energy-efficient utilities. In addition, he noted that the proposed use was consistent with previous industrial uses on the site.

Mr. Painter stated that the proposal would generate approximately 209 trips per day, which was an increase of 80 trips compared to the existing industrial use on the site. He then explained that the applicant had met with the SCF's land use committee and indicated that the SCF did not object to the proposal. In addition, he addressed concerns raised by Commissioner Hart regarding the inclusion of a development condition that would prohibit truck traffic on Lorton Road, saying that the applicant had made a verbal commitment to the SCF to limit the use of Lorton Road. He said that a draft for the language of this condition had been submitted to address the concerns raised by the SCF. He added that this language included provisions for the installation of signs and the distribution of literature discouraging truck traffic on Lorton Road. Mr. Painter indicated that the applicant did not object to pursuing another means of implementing this provision to address the concerns of the SCF. He also pointed out that the traffic signal at the intersection of Terminal Way and the Fairfax County Parkway prioritized through-traffic along the Fairfax County Parkway so that it would limit the effect of vehicles entering and exiting the site. However, he said that staff concluded that the applicant had sufficiently mitigated the transportation impact of the proposed use. In conclusion, Mr. Painter stated that the subject application was consistent with the Comprehensive Plan and the proposed use was consistent with the high-density industrial zoning of the site. (A copy of the revised set of development conditions is in the date file.)

Answering questions from Commissioner Flanagan, Mr. Painter confirmed the following:

- The applicant was aware of the existing transportation issues at the intersection of Terminal Way and the Fairfax County Parkway that occurred during peak hours;

- The applicant was willing to operate under the existing transportation patterns around the site; and
- The applicant had considered the existing traffic patterns around the subject property during its evaluation of the site.

In addition, Mr. Painter explained that a majority of the trips to and from the subject property would not occur during peak hours.

A discussion ensued between Commissioner Flanagan and Mr. Painter, with input from Ms. Tsai, regarding the schedule the applicant would utilize for deliveries at the site, the concerns about the potential increase in truck traffic in the area, and the possible transportation improvements that could be installed to alleviate the traffic congestion in the area, wherein both Mr. Painter and Ms. Tsai stated that they would provide the Commission with additional information on these issues during the deferral period.

A discussion ensued between Commissioner Ulfelder and Mr. Painter regarding the amount of trips generated by trucks compared to private vehicles the information provided by the Institute of Transportation Engineers (ITE) in calculating the trips generated by a use, and the amount of trips conducted by trucks over the course of a day wherein Mr. Painter stated that some trucks carried out multiple trips over the course of a day and the ITE did not differentiate between trucks and private vehicles in its calculations.

Commissioner Ulfelder stated that the amount of traffic generated by the site was contingent on the amount of development in the surrounding area, which could vary due to economic factors. He then expressed concern about the extent to which the traffic generated by this site could fluctuate. Mr. Painter concurred that the amount of trips generated by the site was determined by economic factors, but pointed out that the facility could produce a limited amount of concrete at the site and reiterated that the concrete produced at the site would be not be delivered during peak hour traffic.

In reply to questions from Commissioner Flanagan, Mr. Painter confirmed that the proposed facility would serve areas within a 20 mile radius of the site and Tysons was within this area. He also indicated that the proposed facility would serve Tysons. In addition, Mr. Martin stated that the proximity of the material utilized in producing concrete was a factor in determining the cost-effectiveness of the facility, noting that there were competing producers throughout the area. He also said that a delivery had to be within a certain distance to ensure that the concrete was delivered within an appropriate timeframe. A discussion ensued between Commissioner Flanagan and Mr. Martin regarding the locations of competing concrete producers and the concerns about concrete dust raised by Commissioner Litzenberger.

Replying to questions from Commissioner Hart, Mr. Painter said that concrete had to be delivered and poured at a site within 90 minutes of being produced. Mr. Martin explained that concrete deemed unfit for use would be recycled or disposed at an appropriate facility, adding that such concrete would not be stored on-site.

Commissioner Hart asked whether the applicant would agree to development conditions that did not include an additional condition prohibiting truck traffic on Lorton Road. Mr. Painter indicated that the applicant would support such a provision.

In response to questions from Commissioner Flanagan, Mr. Martin said that trucks beyond a certain weight were not permitted to utilize interstate roads, but noted that the applicant favored keeping truck loads within the appropriate weight limits to allow them to utilize these roads. In addition, he reiterated that the majority of the truck traffic generated by the site would not contribute to peak hour traffic, stating that non-peak hours would be utilized to ensure the efficient delivery of materials. Mr. Martin also confirmed that trucks with additional wheels could be utilized to comply with the weight load policies for interstate roads.

Chairman Murphy called for speakers, but received no response; therefore, he noted that a rebuttal statement was not necessary. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Flanagan for action on this case.

(Start Verbatim Transcript)

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Chairman Murphy: Public hearing is closed. Mr. Flanagan.

Commissioner Flanagan: Thank you, Mr. Chairman. Let me find my motion here. Okay, I MOVE THAT THE PLANNING COMMISSION DEFER FOR DECISION ONLY SE 2014-MV-073 TO A DATE CERTAIN OF JUNE 17, 2015.

Commissioner Litzenberger: Second.

Chairman Murphy: Seconded by Mr. Litzenberger. Is there a discussion? All those in favor of the motion to defer decision only on SE 2014-MV-073 to a date certain of June 17th, with the record remaining open for written or electrical – electronic comments, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much for enlightening our day.

(The motion carried by a vote of 9-0. Commissioners de la Fe, Lawrence, and Sargeant were absent from the meeting.)

(End Verbatim Transcript)

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SE 2015-MV-003 – FIRST YEARS LEARNING CENTER, LLC
– Appl. under Sects. 6-105, 6-106, and 8-305 of the Zoning
Ordinance to permit a home child care facility. Located at 6614

Winstead Manor Ct., Lorton, 22079, on approx. 10,488 sq. ft. of land zoned PDH-2. Tax Map 99-2 ((17)) 34. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Lawrence McClafferty, Applicant's Agent, McCandlish and Lillard, PC, reaffirmed the affidavit dated May 7, 2015.

There were no disclosures by Commission members.

Mary Ann Tsai, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of application SE 2015-MV-003.

Responding to questions from Commissioner Flanagan, Ms. Tsai confirmed that the staff report for the subject application was published on May 27, 2015. She also indicated that a letter from the attorney representing the Winstead Manor Homeowners Association (WMHOA) dated April 28, 2015 had not been included in the staff report, adding that staff did not have a copy of this letter during the process of drafting the staff report. Commissioner Flanagan said that he had forwarded copies of this letter to the Commissioners. (A copy of the letter is in the date file.)

Referring to Development Condition Number 11 in Appendix 1 of the staff report, Commissioner Hart stated that the play set depicted in the plat was not consistent with this condition because it was too tall. He then asked where the play set had been prior to being relocated and whether this relocation had been done to conform to the provisions articulated in Development Condition Number 11. Ms. Tsai explained that the play set for the proposed child care facility had been located in the minimum required rear and side yard, but after meeting with staff, the applicant agreed to move this equipment to an appropriate area.

Commissioner Hedetniemi pointed out that the back yard of the proposed home child care facility did not include a fence or barrier. She then expressed concerns about the safety of the children and asked if the proposal included provisions that would prevent children from wandering from this area. Ms. Tsai stated that the children would be supervised while utilizing this area. In addition, she said that the Zoning Ordinance did not require that the back yard of a home child care facility be fenced.

Commissioner Strandlie noted that the play equipment did not include any ground cover and indicated that this was not consistent with the requirements for such equipment. Ms. Tsai stated that this requirement was under the purview of the State of Virginia and favored deferring to a state inspector to address this issue.

Mr. McClafferty explained that the subject property contained an existing single-family detached dwelling unit on a 10,488 square-foot lot, adding that the interior included approximately 4,500 square feet of space. He pointed out the location of the play area in the walk-out basement of the home, which included approximately 1,500 square feet of space. In addition, Mr. McClafferty noted the significant amount of open space in the back yard of the subject property. He also addressed concerns from Commissioner Hart regarding the location of the play set on the property, stating that this issue had been resolved and the play set for the proposed home child

care facility would be located in an appropriate area. Mr. McClafferty explained that the existing home child care facility operating on the subject property was licensed by the State of Virginia to care for a maximum of 12 children and the applicant was permitted to continue caring for 12 children under the grace period granted by the County for home child care providers seeking to comply with updated County standards. He also said that the applicant had been licensed for 12 children since 2010. In addition, he noted that some of the children cared for included infants and indicated that the applicant had implemented appropriate safety measures for these infants. Mr. McClafferty indicated that the opposition to the subject application came from one residence and discussed at length the specifics related to the opposition.

A discussion ensued between Commissioner Flanagan and Ms. Tsai regarding the other home child care facility located within the applicant's neighborhood wherein Ms. Tsai explained that this facility had reduced the number of children cared for at this facility from 10 to 7 because the operator of the facility had been unable to obtain the necessary special exception approval, noting that the Board of Supervisors had indefinitely deferred the decision for this case and the reduction of the number of children cared for was subsequently imposed by a court order.

When Commissioner Flanagan expressed concern about the ability of vehicles to exit the pipe-stem that accessed the subject property, Mr. McClafferty indicated that vehicles could safely exit the pipe-stem without encroaching on the driveway of another property. A discussion ensued between Commissioner Flanagan and Mr. McClafferty regarding the design of the pipe-stem and the ability for a garbage truck to access the pipe-stem.

Commissioner Flanagan asked about the manner in which the children attending the home child care facility were dropped off at the subject property. Mr. McClafferty explained that the parents of the children accessed the property by entering the pipe-stem from the cul-de-sac at the end of Winstead Manor Court and parked on the driveway before dropping off or picking up the children.

Answering questions from Commissioner Flanagan, Ms. Tsai said that the other home child care center operating within the neighborhood was located on Lot 31 along Winstead Manor Court and had a fenced back yard.

When Commissioner Litzenberger asked about the veracity of the claims made by the neighbors opposing the subject application, Mr. McClafferty stated that the claims pertaining to parking violations and traffic impact incurred by the applicant were not accurate. He reiterated that the photographs provided by the neighbors depicting vehicles illegally parked around the subject property were not consistent with the operations of the applicant's home child care center.

Referring to Mr. McClafferty's statement, Commissioner Hedetniemi pointed out that there had been at least five requests made to the Virginia Department of Social Services to inspect the existing home child care facility on the site. She then indicated that these inspections had determined that the applicant had not committed any significant violations and that the extent of such requests was not warranted. A discussion between Commissioner Hedetniemi and Mr. McClafferty ensued regarding the reason these inspections were requested and the individuals responsible for making such requests wherein Commissioner Hedetniemi expressed concern that such inspections were without merit.

Replying to questions from Commissioner Hurley, Mr. McClafferty said that the home child care facility utilized one non-resident employee. He added that this non-resident employee parked on a public street and did not utilize the driveway on the subject property. In addition, Mr. McClafferty reiterated that there was no fencing in the back yard of the site, adding that some of the children were not of walking age. He indicated that none of the children attending the home child care facility were of age to attend school, adding that the maximum age of the children cared for at this facility was three-years-old.

Commissioner Hurley pointed out that page 2 of the staff report indicated that a microwave and a refrigerator were utilized by the home child care facility and asked whether concerns of a second kitchen in the basement were warranted. Ms. Tsai said that staff had reviewed these features during a site visit and no concerns were expressed.

When Commissioner Migliaccio asked about the extent of the neighborhood support for the subject application, Mr. McClafferty distributed to the Commissioners a document containing a tax map of the neighborhood wherein the neighbors that supported the application were highlighted. Referring to this document, he pointed out the location of the subject property, the location of the residents who opposed the proposal, and the location of the residents who had expressed support. He added that this document also contained a petition from neighbors expressing support for the subject application. Mr. McClafferty also indicated that the operation of the home child care facility on the site had not adversely impacted property values in the neighborhood. (A copy of this document is in the date file.)

A discussion ensued between Commissioner Migliaccio and Mr. McClafferty regarding the number of homes within the WMHOA wherein Mr. McClafferty said that they were comprised of approximately 43 homes.

Referring to the SE plat in the staff report, Commissioner Hart echoed concerns from Commissioner Flanagan regarding the ability of vehicles to exit the property and asked whether a vehicle could safely exit while remaining within the necessary easements. Ms. Tsai stated that a vehicle could safely enter and exit the subject property while remaining within the easements, reiterating that doing so would not require encroachment on other neighboring properties. Mr. McClafferty concurred with Ms. Tsai's statement.

Commissioner Flanagan announced his intent to defer the decision only for this case at the conclusion of the public hearing.

Chairman Murphy called the first listed speaker and recited the rules for public testimony.

Daniel Streich, 3201 Jermantown Road, Suite 600, Fairfax, representing the WMHOA, spoke in opposition to the subject application, stating that the conclusions of the staff report were not accurate. He also acknowledged that the neighbors who opposed the proposal held positions within the WMHOA, but noted that these individuals did not hold a leadership position within this organization. Mr. Streich explained that the applicant was neither the owner of the subject property, nor was the applicant a member of the WMHOA, and the operation of a home child care facility was not consistent with the policies of the WMHOA. He then said that he favored

denial of the application or requiring the applicant to care for a maximum of seven children. (Copies of Mr. Streich's statement and associated photographs are in the date file.)

In response to questions from Chairman Murphy, Mr. Streich pointed out the location of another child care facility located near the subject property along Winstead Manor Court. He also clarified that the residents on Lot 34, which was adjacent to the subject property, had operated a previous home child care facility out of this residence, but this facility ceased operation in 2010.

Answering questions from Commissioner Flanagan, Mr. Streich explained that the neighboring residents opposing the subject application did not object to the operation of a home child care facility on the site, but they favored limiting the number of children cared for at this facility to seven. He added that the pipe stem driveway that accessed the subject property could not support a home child care facility that permitted 12 children and such use was not consistent with the criteria for permitting an SE, as articulated in the Zoning Ordinance.

Commissioner Hedetniemi asked about the process of verifying that the applicant did not reside at the subject property or that the garage could not sufficiently accommodate a vehicle. Mr. Streich explained that these observations had been conducted by the neighboring residents residing on Lot 34, but noted that neither he nor these residents had inspected the interior of the subject property. However, he indicated that the applicant had not provided staff with sufficient evidence that the subject property was their primary residence. A discussion ensued between Commissioner Hedetniemi and Mr. Streich regarding staff's analysis of the applicant and the subject property wherein Mr. Streich reiterated that observations made by neighbors indicated that the applicant did not reside at the site.

Commissioner Hedetniemi asked whether the neighbors opposing the subject application would testify. Mr. Streich said that these individuals planned to voice their objections at the Board of Supervisors public hearing for this application. When Chairman Murphy asked why these individuals did not plan to testify before the Planning Commission, Mr. Streich stated that they could not attend due to a scheduling conflict.

Commissioner Flanagan said that the tax records for the subject property listed the applicant's parents as the owners. Mr. Streich concurred, saying that the applicant did not have an ownership interest in the subject property.

A discussion ensued between Commissioner Litzenberger and Mr. Streich regarding the voter registration status of the applicant and the applicant's family.

Replying to questions from Commissioner Hart, Ms. Tsai said the following:

- The analysis by staff had concluded that the subject property was the applicant's primary residence;
- The Zoning Ordinance required that the operator of a home child care facility reside at the property;

- The WMHOA's concerns regarding the applicant's residency at the subject property had been submitted to staff;
- The residency of the applicant had been analyzed by staff and an inspector from the Department of Code Compliance (DCC), which included an inspection of the interior of the residence on the subject property;
- The investigation made by staff and DCC concluded that the concerns raised by the neighbors regarding the residency of the applicant were not warranted;
- The applicant had also been subject to an inspection by the State of Virginia to address similar concerns regarding residency, but the inspection's conclusions were consistent with those of staff and DCC; and
- The investigation conducted by staff concluded that the applicant resided at the subject property.

Commissioner Hart and Commissioner Hurley noted the difficulty of verifying the neighboring residents' concerns about the residency of the applicant when such concerns were contingent on limited observations.

Commissioner Hurley asked about the usage of the garage on the subject property. Mr. Streich stated that one vehicle bay in the garage had been cleared to accommodate a vehicle, but the other vehicle bay remained obstructed. Ms. Tsai concurred with Mr. Streich's conclusions. When Commissioner Hurley asked whether this constituted a violation, Ms. Tsai confirmed that it was a violation and the applicant would be required to clear the obstructed vehicle bay within the garage, as articulated in Development Condition Number 8 in Appendix 1 of the staff report.

Commissioner Flanagan pointed out that there had been issues at other home child care facilities located within Planned Development Housing (PDH) zones regarding the usage of garages. He then explained that when SE applications were approved for these facilities, these applications included development conditions requiring that the garages remained clear to accommodate vehicles. He said that since the subject property was zoned PDH-2, the applicant's current use of the garage constituted a violation under the proposed development conditions. Mr. Streich concurred, adding that this was also a violation of WMHOA policies.

Alan Boyd, 6603 Winstead Manor Court, Lorton, spoke in support of the proposal, stating that the opposition expressed by the residents on Lot 34 was not warranted. He also echoed remarks from Mr. McClafferty regarding the WMHOA's ineffectiveness at enforcing its policies, adding that these policies had not been enforced equally to every resident in the community. In addition, Mr. Boyd said that the WMHOA had not met on a regular basis and indicated that it had limited resources. He also expressed concern about the operating budget of the WMHOA. He then indicated that the WMHOA's opposition to the proposal and to other home child care facilities within the community was not reflective of the community's residents. Mr. Boyd pointed out that the community had previously supported more home child care centers, which collectively cared for 31 children, and no concerns were raised. He then stated that the existing home child care

facilities in the community collectively cared for 14 children and the subject application would raise this to 19, which was significantly lower than the previous number of children cared for. Mr. Boyd indicated that the operation of a home child care facility on the site would not incur a significant traffic impact on the community. In addition, he addressed Mr. Striech's concern regarding the residency of the applicant, stating based on his observations from his property, the applicant resided on the subject property.

When Commissioner Hurley asked about the location of his property, Mr. Boyd pointed out that he resided on Lot 42, as shown on the SE Plat.

Commissioner Hart asked whether vehicles had been observed parking on the pipe stem outside the subject property. Mr. Boyd said that he had observed vehicles parking on the pipe stem, but noted that these vehicles were not associated with the home child care center on the subject property. However, he stated that he had not observed any vehicles that had parked on the pipe stem overnight. He also indicated that delivery vehicles were permitted to park on the pipe stem temporarily.

Commissioner Flanagan said that trash collection services had complained about vehicles parked along the pipe stem along the subject property and asked about the status of this issue. Mr. Boyd stated that he had not observed instances where the trash collection service was hindered while operating along Winstead Manor Court.

A discussion ensued between Commissioner Strandlie and Mr. Boyd regarding the drop-off/pick-up schedule for the home child care facility on the site and the schedule for trash collection around the subject property wherein Mr. Boyd indicated that there were no conflicts between these schedules, confirming that trash collection occurred prior to the first scheduled drop-off.

A discussion ensued between Commissioner Strandlie and Mr. Boyd regarding the WMHOA's enforcement of its policies and the instances where such policies were not sufficiently enforced.

Chairman Murphy called for speakers from the audience.

Sophia and Tonya Hollins, 6400 Castlefin Way, Alexandria, voiced support for the subject application. Ms. Hollins deferred to her daughter, Sophia, who had previously attended the home child care facility on the site and noted the quality of the care provided. She also indicated that there had been no parking issues at the site and that the applicant resided at the subject property. In addition, Ms. Hollins explained that the applicant's spouse resided at another location, but the applicant resided on the subject property. She also indicated that she had previously parked along the pipe stem near the subject property, but noted that she ceased parking in this area after being informed that it was not permitted. She then reiterated that she had not experienced any parking conflicts while dropping off or picking up her child. Ms. Hollins addressed concerns regarding the usage of the garage on the site, saying that it had not caused any parking conflicts. She also noted the difficulty of finding child care services in the area.

Emily Anderson, 6495 Brick Hearth Court, Alexandria, spoke in support of the subject application, stating that she had a child who attended the applicant's home child care facility. She echoed remarks from previous speakers regarding the residency of the applicant, stating that the

applicant resided at the subject property. She also noted the quality of the service provided by the applicant and stated that denial of the proposal would negatively impact the families that depended on the applicant's service. Ms. Anderson echoed remarks from Ms. Hollins regarding the difficulty of finding suitable child care services. In addition, she stated that the applicant enforced the parking prohibitions on the pipe stem and coordinated with parents to ensure that there were no conflicts during drop-off/pick-up.

Michael Gomes Jr., 6121 Hillview Avenue, Alexandria, voiced support to the proposal. He said that his children attended the home child care facility on the site. He then addressed concerns regarding parking, saying that the applicant enforced the parking restrictions on the pipe stem and the pick-up/drop-off schedule for the children. He also indicated that the applicant informed parents of these policies and noted the effectiveness of the applicant's pick-up/drop-off schedule. In addition, Mr. Gomes said that the pipe stem and the driveway on the subject property provided sufficient space for vehicles to enter and exit the area. He echoed remarks from previous speakers regarding the quality of the service provided by the applicant and the negative impact that denying the subject application would have on the families served by the applicant.

Ajmal Abdul Hakim, 4722 Deer Run Court, Alexandria, stated that he resided with the applicant's spouse and voiced support for the subject application. He echoed remarks from previous speakers regarding the residency of the applicant, saying that the applicant resided at the subject property. He then aligned himself with the previous speakers who voiced support for the proposal.

Allison Stewart, 7502 Digby Green, Alexandria, spoke in support of the proposal. She said she had a child that had previously attended the home child care facility on the site and noted the quality of the service provided by the applicant, adding that parents were given regular information about the care of their children. Ms. Stewart also echoed remarks from previous speakers regarding the difficulty of locating child care services in the County.

Selim Eslaquit, 6606 Winstead Manor Court, Lorton, echoed remarks from previous speakers regarding the WMHOA's inability to effectively enforce its policies. In addition, he said that his property was located near the subject property and indicated that he had not observed traffic or parking conflicts with drop-off/pick-up for the home child care center. Mr. Eslaquit added that the objections voiced by the residents on Lot 34 were not reflective of the sentiment of surrounding community, adding that the details of these objections were not warranted.

Manuel Truitt, 6091 Mount Vernon Boulevard, Lorton, voiced support for the proposal. He stated that two of his children had attended the applicant's home child care facility and echoed remarks from previous speakers regarding the quality of the service provided and the applicant's enforcement of the neighborhood's parking policies and the effectiveness of the drop-off/pick-up schedule. Mr. Truitt stated that the opposition voiced by the residents on Lot 34 was not warranted. He also addressed concerns regarding the applicant's residency, stating that the applicant resided at the subject property. In addition, he echoed remarks from previous speakers regarding the difficulty of locating child care services.

Answering questions from Commissioner Flanagan, Mr. Truitt clarified that he did not reside in the Winston Manor community.

Michelle Stilly, 6127 Joust Lane, Alexandria, spoke in favor of the subject application. She said that she had a child who attended the home child care facility on the site. She then echoed remarks from previous speakers regarding the difficulty of locating child care services in the County, the quality of the care provided by the applicant, and the applicant's effective enforcement of the policies governing the home child care facility on the site.

Youssoupha Diatta, 6651 High Valley Lane, Alexandria, voiced support for the subject application. He stated that he had a child that attended the applicant's home child care facility. He then echoed remarks from previous speakers regarding the quality of the care provided by the applicant and the effectiveness of the applicant's enforcement of the community's parking policies. He also expressed concern regarding the objections expressed by the neighboring residents on Lot 34 and the negative impact that denying the proposal would have on families that relied on the services provided by the applicant.

Daniel Jacobowitz, 8054 Winstead Manor Lane, Lorton, spoke in support of the proposal. He said that his residence was located near the subject property. He then said he concurred with the conclusions articulated in the staff report regarding the operation of the home child care facility. Mr. Jacobowitz aligned himself with previous speakers regarding their support of the subject application and the quality of the service provided by the applicant. He also echoed remarks from previous speakers regarding the WMHOA's inability to enforce its policies.

Susan Yarwood, 8056 Winstead Manor Lane, Lorton, spoke in support of the subject application. She stated that her property was located near the subject property. She then indicated that the operation of the home child care facility did not generate a significant traffic impact on the surrounding community and noted the efficiency of the applicant's pick-up/drop-off schedule. Ms. Yarwood said that there were multiple home child care facilities operating within the surrounding community, two of which were not fenced. She then addressed concerns from Commissioner Hurley regarding the safety of the children utilizing the back yard play area, saying that the children were sufficiently supervised. In addition, she echoed remarks from previous speakers regarding the WMHOA's inability to enforce its parking policies.

Chairman Murphy noted that the quality of the care provided by the home child care facility was not a criterion that the Commission could consider in rendering a decision on the subject application.

Paula Knizner, 8058 Winstead Manor Lane, Lorton, voiced support for the application. She stated that her residence was located near the subject property. She then echoed remarks from previous speakers regarding the quality of the service provided by the applicant, the WMHOA's inability to enforce its policies, and the WMHOA's objection to the proposal not being consistent with the sentiment of the surrounding community. She also said that the operation of a home child care center did not adversely impact the property values of the surrounding community. Ms. Knizner addressed concerns raised regarding the applicant's residency, stating that the applicant resided on the subject property.

Carmen Rodriguez, 406 South Parrot Drive, Fort Washington, Maryland, spoke in support of the proposal. She stated that she had previously worked for the applicant and addressed concerns regarding the applicant's residency, indicating that the applicant resided at the subject property.

She also echoed remarks from previous speakers regarding the ineffectiveness of the WMHOA at enforcing its policies, the quality of the care provided by the applicant, and the effective manner in which the applicant enforced the parking policies of the community.

Alan Deluca, 8052 Winstead Manor Lane, Lorton, voiced support for the subject application. He said that his property was located near the site. He then echoed remarks from previous speakers regarding the residency of the applicant, stating that the applicant resided on the subject property. In addition, he noted the effectiveness of the applicant's drop-off/pick-up schedule and the quality of the service provided by the applicant. Mr. Deluca also echoed remarks from previous speakers regarding the WMHOA's inability to enforce its policies and the opposition expressed by the owners of Lot 34 not being consistent with the surrounding community.

Jennifer Bianco-Johnson, 5415 Castle Bar Lane, Alexandria, voiced support for the proposal. She indicated that she had a child who attended the existing home child care facility on the site. She then echoed remarks from previous speakers regarding the quality of the service provided by the applicant, the applicant's effectiveness in enforcing the parking policies of the community, and the negative impact that denying the application would incur on the families that utilized the applicant's services.

Stacy Brayboy, 6613 Netties Lane, Unit K, Alexandria, spoke in support of the subject application. She stated that she favored additional coordination amongst staff, the surrounding community, and the parents who utilized the home child care facility on the site during the deferral period. Ms. Brayboy also echoed remarks from previous speakers regarding the WMHOA's inability to enforce its policies. In addition, she said that one of her children had attended the home child care facility on the site and echoed remarks from previous speakers regarding the quality of the care provided by the applicant, the difficulty of finding quality child care services, and the effective manner in which the applicant enforced the parking policies of the community.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Mr. McClafferty pointing out that if the home child care facility on the subject property were to operate with a maximum of seven children, then there would be no development conditions to ensure enforcement of the policies pertaining to parking, garage usage, fencing, and the play area. He added that approval of the subject application would articulate the requirements for the operation of the home child care center on the site and provide for greater enforceability of these policies. Mr. McClafferty reiterated his concerns regarding the veracity of the photographs provided by the opponents of the proposal, adding that the testimony provided by the speakers indicated that the applicant sufficiently enforced the parking restrictions in the community. In addition, he said that the proposal was consistent with the recommendations of the Comprehensive Plan and satisfied the criteria for a SE. Mr. McClafferty then stated that the subject application did not conflict with the covenants of the community and addressing such conflicts were under the purview of the courts.

Chairman Murphy called for closing remarks from Ms. Tsai, who declined.

Commissioner Flanagan commended Mr. McClafferty for coordinating with him and the applicant prior to the public hearing and for addressing the concerns raised regarding the

proposal. He also commended the speakers for their testimony and acknowledged the need for child care services in the County.

There were no further comments or questions from the Commission; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Flanagan for action on this case.

(Start Verbatim Transcript)

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Chairman Murphy: Public hearing is closed. Recognize Mr. Flanagan.

Commissioner Flanagan: Yes. Thank you, Mr. Chairman. As I indicated, I MOVE THAT THE PLANNING COMMISSION DEFER A DECISION ONLY, WITH THE RECORD TO REMAIN OPEN FOR ADDITIONAL WRITTEN TESTIMONY, FOR SE 2015-MV-003, TO A DATE CERTAIN OF JUNE 18, 2015.

Commissioner Litzenberger: Second.

Chairman Murphy: Seconded by Mr. Litzenberger. Is there a discussion of the motion? All those in favor of the motion to defer decision only on SE 2015-MV-003 to a date certain of June 18th, with the record remaining open for comment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you all very much for coming.

(The motion carried by a vote of 9-0. Commissioners de la Fe, Lawrence, and Sargeant were absent from the meeting.)

(End Verbatim Transcript)

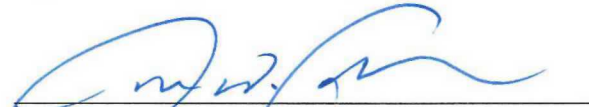
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The meeting was adjourned at 11:03 p.m.
Peter F. Murphy, Chairman
James R. Hart, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office,
12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Jacob Caporaletti

Approved on: October 21, 2015



John W. Cooper, Clerk to the
Fairfax County Planning Commission